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11 SINHDARELLA, INC.

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19 Attorneys for Defendants
20 KEVIN VU and CAFE BONITA, INC.

21 UNITED STATES DISTRICT COURT
22 NORTHERN DISTRICT OF CALIFORNIA
23
24

25 SINHDARELLA, INC., a California
26 corporation,

27 Plaintiff,

28 v.

29 KEVIN VU, an individual, d/b/a/ THE
30 BOILING CRAB; CAFE BONITA, INC.,
31 a California corporation; and DOES 2
32 through 10,

33 Defendants.

CASE NO. C 07 04353 WHA

Honorable William H. Alsup

**STIPULATION AND [PROPOSED]
PERMANENT INJUNCTION**

1 Plaintiff Sinhdarella, Inc. (“Sinhdarella”) and Defendants Kevin Vu and Café
2 Bonita, Inc., together with Sac Crawfish LLC and Lee Crawfish, Inc. (collectively,
3 “Defendants”) hereby stipulate and agree through their respective counsel of record as follows:

4 WHEREAS Sinhdarella is the owner of common law rights in the mark THE
5 BOILING CRAB and United States Trademark Registration No. 3,256,219 for the mark THE
6 BOILING CRAB in connection with restaurant services in International Class 43 (“Sinhdarella’s
7 THE BOILING CRAB Trademark”), as described more fully the Complaint filed in this action
8 on or about August 23, 2007;

9 WHEREAS Sinhdarella operates a chain of restaurants under the trademark THE
10 BOILING CRAB and offers restaurant services and related products and services under the
11 trademark THE BOILING CRAB;

12 WHEREAS Defendants currently own and operate restaurants in San Jose,
13 California; San Francisco, California; and Sacramento, California;

14 WHEREAS beginning in approximately June 2006, years after Sinhdarella first
15 began using the mark THE BOILING CRAB at least as early as 2004, Defendants began using
16 the name “The Boiling Crab” in connection with the operation of a restaurant and providing
17 restaurant services in San Jose, California;

18 WHEREAS beginning in approximately January 2008, Defendants began using
19 the name “The Boiling Crawfish” in connection with the operation of restaurants and providing
20 restaurant services in San Francisco, California and Sacramento, California;

21 WHEREAS Sinhdarella filed this action against Kevin Vu asserting claims for
22 trademark and trade dress infringement on or about August 23, 2007;

23 WHEREAS Sinhdarella filed a First Amended and Supplemental Complaint
24 adding Cafe Bonita, Inc. as a defendant on or about January 4, 2008;

25 WHEREAS the Court entered an Order Granting Sinhdarella’s Motion for
26 Preliminary Injunction for trademark infringement on or about February 12, 2008, finding, *inter*
27 *alia*, that “[a] strong probability of success on the merits has been proven” by Sinhdarella,
28 including because Sinhdarella presented admissible evidence of “over thirty instances where

1 customers of plaintiff's chain of restaurants were confused as to the affiliation between Vu's
 2 restaurant and plaintiff's" and because "an overwhelming majority of evidence indicates Vu
 3 copied plaintiff's restaurants";

4 WHEREAS pursuant to the terms of a written Settlement Agreement executed by
 5 the Parties on March 13, 2008 ("Settlement Agreement"), the Parties entered into this stipulation
 6 and agreed to jointly request that the Court enter the permanent injunction provided below; and

7 WHEREAS the Parties further agreed in the Settlement Agreement, as more fully
 8 described therein, to jointly execute and file with the Court a stipulation for dismissal of this
 9 action without prejudice pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure,
 10 which stipulation for dismissal without prejudice will request that this Court retain jurisdiction to
 11 the maximum extent permitted by law to enforce the terms of this stipulated injunction and the
 12 Parties' Settlement Agreement, within ten (10) business days after the later of: (i) notice of entry
 13 by the Court of this stipulated injunction; or (ii) Defendants' satisfactory tender of the initial
 14 payment owed to Sinhwarella under the Settlement Agreement;

15 NOW, THEREFORE, by and through their undersigned counsel of record, in
 16 order to protect consumers from confusion and for good cause showing, as also described in the
 17 Court's Order Granting Sinhwarella's Motion for Preliminary Injunction for trademark
 18 infringement entered on or about February 12, 2008, and in the briefs and evidence submitted by
 19 Sinhwarella in connection with that motion, the Parties hereby stipulate and agree as follows:

20 1. Defendants shall not use Sinhwarella's THE BOILING CRAB Trademark
 21 or any mark confusingly similar thereto (including but not limited to "The Boiling Crawfish,"
 22 "The Cooking Crab," "The Cooking Crawfish," and any other mark containing the word
 23 "Boiling" in combination with the name of a sea-water crustacean) in connection with the
 24 operation or promotion of any restaurant or in connection with providing any restaurant-related
 25 products or services. Nothing herein shall prohibit Defendants from using the names "SJ
 26 Crawfish," "Coco's Crawfish," or "Sac Crawfish" in connection with the restaurants located in
 27 San Jose, San Francisco, and Sacramento, California, referred to above and Defendants may use
 28

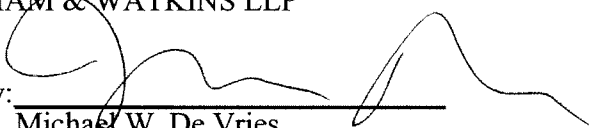
1 the names "SJ Crawfish," "Coco's Crawfish," and "Sac Crawfish" in connection with operation
2 of those restaurants.

3 2. Defendants shall not assist, aid, or abet any other person or entity in
4 engaging in or performing any of the activities prohibited by this stipulated injunction.

5
6 IT IS SO STIPULATED AND AGREED.

7 DATED: March 17, 2008

8 LATHAM & WATKINS LLP

9
10 By: 
Michael W. De Vries

11 Attorneys for Plaintiff Sinhdarella, Inc.

12 DATED: March 13, 2008

13 LAW OFFICES OF CHRISTOPHER
14 HAYS

15 By: _____
16 Christopher Hays

17 Attorneys for Defendants Kevin Vu and Cafe
18 Bonita, Inc. and also for Sac Crawfish LLC and
Lee Crawfish, Inc.

19 IT IS SO ORDERED.

20 Dated: _____

21
22 _____
Hon. William H. Alsup
United States District Judge

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2 of those restaurants.

3 2. Defendants shall not assist, aid, or abet any other person or entity in
4 engaging in or performing any of the activities prohibited by this stipulated injunction.

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6 IT IS SO STIPULATED AND AGREED.

7 DATED: March 13, 2008

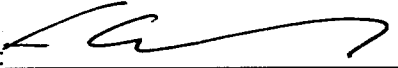
8 LATHAM & WATKINS LLP

9
10 By: _____
Michael W. De Vries

11 Attorneys for Plaintiff Sinhdarella, Inc.

12 DATED: March 13, 2008

13 LAW OFFICES OF CHRISTOPHER
14 HAYS

15 By:  _____
16 Christopher Hays

17 Attorneys for Defendants Kevin Vu and Cafe
18 Bonita, Inc. and also for Sac Crawfish LLC and
Lee Crawfish, Inc.

19 IT IS SO ORDERED.

20 Dated: _____

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22 Hon. William H. Alsup
United States District Judge